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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,670	11/07/2002	Rastko Gajic	PU2081	9297

23454 7590 10/08/2004

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EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/065,670

Applicant(s)

GAJIC ET AL.

Examiner

David Buttner

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Bartels 2001/0046907 publication in view of Sano '906.

Bartels (table I) discloses golf ball cores corresponding to applicant's cores. In one embodiment, the core is coved with an intermediate layer (paragraph 39) and a thermoset urethane outer cover (paragraph 37). In another embodiment the core is covered with only a blend of ionomers (paragraph 37).

The core has a PGA compression of 70-110 (paragraph 42) which overlaps applicant's range.

Bartels does not describe the particle size of his zinc acrylate used in the core. It is known that keeping the particle size between 1-4.5 microns improves COR relative to larger sizes (see table 2-4 of Sano). It would have been obvious to keep Bartels' zinc acrylate within the optimum size for the expected benefits.

Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Dewanjee '024 in view of Sano '906.

Dewanjee (table I) discloses golf ball cores corresponding to applicant's cores. The core is coved with an boundary layer (table 3 #'s 6,7) corresponding to applicant's intermediate layer and a thermoset urethane outer cover (table 5). The core has a PGA compression of 55-80 (col 10 line 24).

Dewanjee does not describe the particle size of his zinc acrylate used in the core. It is known that keeping the particle size between 1-4.5 microns improves COR relative to larger sizes (see table 2-4 of Sano). It would have been obvious to keep Dewanjee's zinc acrylate within the optimum size for the expected benefits.

Claim 2 rejected under 35 U.S.C. 103(a) as being unpatentable over Dewanjee 2002/0137578 or WO 02/058799 in view of Sano '906.

The two primary references are believed to be equivalent. Dewanjee (table 1) discloses golf ball cores corresponding to applicant's cores. The core has a PGA compression of 55-70 (paragraph 7). The cover is a blend of the same ionomers (paragraph 34) applicant uses.

Dewanjee does not describe the particle size of his zinc acrylate used in the core. It is known that keeping the particle size between 1-4.5 microns improves COR relative to larger sizes (see table 2-4 of Sano). It would have been obvious to keep Dewanjee's' zinc acrylate within the optimum size for the expected benefits.

Applicant's arguments filed 7/2/04 have been fully considered but they are not persuasive.

Applicant argues the Bartels publication cannot be used in an obviousness rejection because it is commonly assigned with the present application.

This is not convincing. Bartels published prior to applicant's filing date. Common ownership only disqualifies subject matter in 103 rejections via 102(e). Bartels qualifies under 102(a) and 102(e). See MPEP 706.02 (1)(3).

Also, the response failed to include the "... at the time the invention of application 10-065670 was made...." phraseology (see MPEP 706.02(1)(2) II Evidence Required ...).

Applicant's amendment of compression measurement necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS**

**MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 571-272-1084. The examiner can normally be reached on weekdays from 10 to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

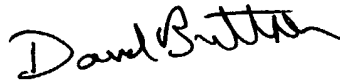
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

Art Unit: 1712

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DAVID J. BUTTNER  
PRIMARY EXAMINER

D. Buttner  
October 5, 2004

A handwritten signature in cursive script that reads "David Buttner".